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## STATUTORY INSTRUMENTS

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# 2003 No. 1417

## The Land Registration Rules 2003

### PART 9

#### CHARGES

##### **How ranking of registered charges as between themselves to be shown on register**

**101.** Subject to any entry in the individual register to the contrary, for the purpose of section 48(1) of the Act the order in which registered charges are entered in an individual register shows the order in which the registered charges rank as between themselves.

##### **Alteration of priority of registered charges**

**102.—**(1) An application to alter the priority of registered charges, as between themselves, must be made by or with the consent of the proprietor or a person entitled to be registered as the proprietor of any registered charge whose priority is adversely affected by the alteration, but no such consent is required from a person who has executed the instrument which alters the priority of the charges.

(2) The registrar may accept a conveyancer's certificate confirming that the conveyancer holds any necessary consents.

(3) The registrar must make an entry in the register in such terms as the registrar considers appropriate to give effect to the application.

##### **Form of charge of registered estate**

**103.** A legal charge of a registered estate may be made in Form CH1.

##### **Application for registration of the title to a local land charge**

**104.** An application to register the title to a charge over registered land which is a local land charge must be supported by evidence of the charge.

##### **Overriding statutory charges**

**105.—**(1) An applicant for registration of a statutory charge that has the effect mentioned in section 50 of the Act must lodge Form SC with the application.

(2) If the applicant satisfies the registrar that the statutory charge has the priority specified in that Form SC, the registrar must make an entry showing that priority in the charges register of the affected registered title.

(3) If the applicant does not satisfy the registrar as mentioned in paragraph (2) but the registrar considers that the applicant has an arguable case, the registrar may make an entry in the charges register of the affected registered title that the applicant claims the priority specified in that Form SC.

(4) If the registrar makes an entry under paragraph (3) the registrar must give notice of the entry to the persons mentioned in rule 106(1) (subject to rule 106(2)).

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- (5) Where an entry has been made under paragraph (3)—
- (a) the proprietor of the statutory charge which gave rise to the entry, or
  - (b) the proprietor of a charge entered in the charges register of the affected registered title which, subject to the effect of the entry, would rank in priority to or have equal priority with that statutory charge under rule 101,

may apply for the entry to be removed or to be replaced by an entry of the kind referred to in paragraph (2).

(6) Paragraph (5)(b) includes the proprietor of a statutory charge entered in the charges register of the affected registered title which has had an entry made in respect of it under paragraph (3) claiming priority over the statutory charge referred to in paragraph (5)(a).

(7) An applicant under paragraph (5) must provide evidence to satisfy the registrar that the registrar should take the action sought by the applicant under that paragraph.

(8) Before taking the action sought by the applicant under paragraph (5), the registrar must give notice of the application to any proprietors within that paragraph (other than the applicant).

#### **Service of notice of overriding statutory charges**

**106.**—(1) The registrar shall give notice under section 50 of the Act to—

- (a) the registered proprietor of a registered charge, and
- (b) subject to paragraph (2), any person who appears to the registrar to be entitled to a charge protected by a notice,

entered in the charges register of the affected registered title at the time of registration of the statutory charge.

(2) The registrar shall not be obliged to give notice to a person referred to in paragraph (1)(b) if that person's name and his address for service under rule 198 are not set out in the individual register in which the notice is entered.

#### **Further advances—notice of creation of subsequent charge**

**107.**—(1) A notice given for the purposes of section 49(1) of the Act by one of the methods mentioned in paragraph (2) ought to have been received at the time shown in the table in paragraph (4).

(2) The methods referred to in paragraph (1) are—

- (a) by post, to the postal address, whether or not in the United Kingdom, entered in the register as the prior chargee's address for service, or
- (b) by leaving the notice at that address, or
- (c) by sending to the box number at the relevant document exchange entered in the register as an additional address for service of the prior chargee, or
- (d) by electronic transmission to the electronic address entered in the register as an additional address for service of the prior chargee, or
- (e) where paragraph (3) applies, by post, document exchange, fax or electronic transmission to the address, box number or fax number provided.

(3) This paragraph applies where the prior chargee has provided to the subsequent chargee a postal address, document exchange box number, fax number, e-mail or other electronic address, and stated in writing to the subsequent chargee that notices to the prior chargee under section 49(1) of the Act may be sent to that address, box number or fax number.

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(4) For the purposes of section 49(2) of the Act a notice sent in accordance with paragraph (2) or (3) ought to have been received at the time shown in the table below—

<i>Method of delivery</i>	<i>Time of receipt</i>
Post to an address in the United Kingdom	The second working day after posting
Leaving at a postal address	The working day after it was left
Post to an address outside the United Kingdom	The seventh working day after posting
Document exchange	On the second working day after it was left at the sender's document exchange
Fax	The working day after transmission
Electronic transmission to an electronic address entered in the register as an address for service or e-mail or other electronic means of delivery under paragraph (3)	The second working day after transmission

(5) A notice posted or transmitted after 1700 hours on a working day or posted or transmitted on a day which is not a working day is to be treated as having been posted or transmitted on the next working day.

(6) In this rule—

“post” means pre-paid delivery by a postal service which seeks to deliver documents within the United Kingdom no later than the next working day in all or the majority of cases, and to deliver outside the United Kingdom within such a period as is reasonable in all the circumstances,

“prior chargee” means the proprietor of a registered charge to whom notice is being given under section 49(1) of the Act,

“subsequent chargee” means the chargee giving notice under section 49(1) of the Act,

F1 .....

#### Textual Amendments

F1 Words in rule 107(6) omitted (10.11.2008) by virtue of [The Land Registration \(Amendment\) Rules 2008 \(S.I. 2008/1919\)](#), rule 2(1), [Sch. 1 para. 38](#) (with rule 5)

#### Obligations to make further advances

**108.**—(1) The proprietor of a registered charge or a person applying to be so registered, who is under an obligation to make further advances on the security of that charge, may apply to the registrar for such obligation to be entered in the register for the purposes of section 49(3) of the Act.

(2) Except as provided in paragraph (3), the application must be made in Form CH2.

(3) Form CH2 need not be used if the application is contained in panel [F28] of Form CH1 <sup>F3</sup> ..., or in a charge received for registration where the form of that charge has been approved by the registrar.

(4) The registrar must make an entry in the register in such terms as he considers appropriate to give effect to an application under this rule.

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#### Textual Amendments

- F2** Figure in rule 108(3) substituted (10.11.2008) by [The Land Registration \(Amendment\) Rules 2008 \(S.I. 2008/1919\), rule 2\(1\), Sch. 1 para. 39](#) (with rule 5)
- F3** Words in rule 108(3) omitted (6.4.2018) by virtue of [The Land Registration \(Amendment\) Rules 2018 \(S.I. 2018/70\), rule 1, Sch. 1 para. 18](#)

#### Agreement of maximum amount of security

**109.**—(1) Where the parties to a legal charge which is a registered charge or which is a registrable disposition have agreed a maximum amount for which the charge is security, the proprietor of the registered charge or a person applying to be registered as proprietor of the registrable disposition may apply to the registrar for such agreement to be entered in the register under section 49(4) of the Act.

(2) The application must be made in Form CH3.

(3) The registrar must make an entry in the register in such terms as he considers appropriate to give effect to an application under this rule.

#### Consolidation of registered charges

**110.**—(1) A chargee who has a right of consolidation in relation to a registered charge may apply to the registrar for an entry to be made in respect of that right in the individual register in which the charge is registered.

(2) The application must be made in Form CC.

(3) The registrar must make an entry in the individual register in such terms as he considers appropriate to give effect to an application under this rule.

#### [<sup>F4</sup>Certificate of registration of company charges

**111.**—(1) When making an application for the registration of a charge created by a company registered under the Companies Acts or a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000 <sup>M1</sup> or the Limited Liability Partnership Act (Northern Ireland) 2002 the applicant must produce to the registrar the <sup>F5</sup>... certificate issued under [<sup>F6</sup>section 859I] of the Companies Act 2006 that the charge has been registered under [<sup>F7</sup>section 859A] of that Act.

(2) If the applicant does not produce the certificate required by paragraph (1) with the application for registration of the charge, the registrar must enter a note in the register stating that no evidence of registration of the charge in accordance with [<sup>F8</sup>section 859A] of the Companies Act 2006 <sup>F9</sup>... has been lodged.]

#### Textual Amendments

- F4** Rule 111 substituted (1.10.2009) by [The Land Registration \(Amendment\) Rules 2008 \(S.I. 2008/1919\), rule 2\(2\), Sch. 1 para. 40](#) (with rule 5)
- F5** Word in rule 111(1) omitted (6.4.2013) by virtue of [The Companies Act 2006 \(Amendment of Part 25\) Regulations 2013 \(S.I. 2013/600\), reg. 1, Sch. 2 para. 5\(2\)\(a\)\(i\)](#) (with reg. 6)
- F6** Words in rule 111(1) substituted (6.4.2013) by [The Companies Act 2006 \(Amendment of Part 25\) Regulations 2013 \(S.I. 2013/600\), reg. 1, Sch. 2 para. 5\(2\)\(a\)\(ii\)](#) (with reg. 6)
- F7** Words in rule 111(1) substituted (6.4.2013) by [The Companies Act 2006 \(Amendment of Part 25\) Regulations 2013 \(S.I. 2013/600\), reg. 1, Sch. 2 para. 5\(2\)\(a\)\(iii\)](#) (with reg. 6)

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- F8** Words in rule 111(2) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, Sch. 2 para. 5(2)(b)(i) (with reg. 6)
- F9** Words in rule 111(2) omitted (6.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, Sch. 2 para. 5(2)(b)(ii) (with reg. 6)

**Marginal Citations**

- M1** 2000 c. 12.

**Registration of charges by certain overseas companies**

<sup>F10</sup>111A. . . . .

**Textual Amendments**

- F10** Rule 111A omitted (6.4.2018) by virtue of The Land Registration (Amendment) Rules 2018 (S.I. 2018/70), rule 1, Sch. 1 para. 19

**Foreclosure—registration requirements**

**112.**—(1) Subject to paragraph (3), an application by a person who has obtained an order for foreclosure absolute to be entered in the register as proprietor of the registered estate in respect of which the charge is registered must be accompanied by the order.

(2) The registrar must—

- (a) cancel the registration of the charge in respect of which the order was made,
- (b) cancel all entries in respect of interests over which the charge has priority, and
- (c) enter the applicant as proprietor of the registered estate.

(3) The registrar may accept a conveyancer's certificate confirming that the conveyancer holds the order for foreclosure absolute or an office copy of it.

**[<sup>F11</sup>Variation of the terms of a registered charge]**

<sup>F11</sup>**113.**—(1) Subject to paragraph (2), an application to register an instrument varying the terms of a registered charge must be made—

- (a) by, or with the consent of, the proprietor of the registered charge and the proprietor of the estate charged,
- (b) with the consent of the proprietor, or a person entitled to be registered as proprietor, of every other registered charge of equal or inferior priority that is prejudicially affected by the variation, and
- (c) with the consent of the proprietor, or a person entitled to be registered as proprietor, of a registered sub-charge of every registered charge of equal or inferior priority that is prejudicially affected by the variation.

(2) A consent under paragraph (1) is not required if—

- (a) the consent of that person is not required by the terms of the registered charge or registered sub-charge of which that person is the proprietor or in respect of which that person is entitled to be registered as proprietor, or
- (b) the person from whom a consent would otherwise be required has executed the instrument.

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(3) The registrar may accept a conveyancer's certificate confirming that the conveyancer holds any necessary consents.

(4) If the registrar is satisfied that the proprietor of any other registered charge, and of any registered sub-charge of that registered charge, of equal or inferior priority to the varied charge that is prejudicially affected by the variation is bound by it, he shall make a note of the variation in the register.

(5) If the registrar is not so satisfied, he may make an entry in the register that an instrument which is expressed to vary the terms of the registered charge has been entered into.

(6) In this rule a reference to a registered sub-charge includes any registered sub-charge which derives directly or indirectly from the registered charge.]

#### Textual Amendments

**F11** Rule 113 substituted (10.11.2008) by [The Land Registration \(Amendment\) Rules 2008 \(S.I. 2008/1919\)](#), rule 2(1), [Sch. 1 para. 41](#) (with rule 5)

### Discharges and releases of registered charges

**114.**—(1) Subject to rule 115, a discharge of a registered charge must be in Form DS1.

(2) Subject to rule 115, a release of part of the registered estate in a registered title from a registered charge must be in Form DS3.

(3) Any discharge or release in Form DS1 or DS3 must be executed as a deed or authenticated in such other manner as the registrar may approve.

(4) Notwithstanding paragraphs (1) and (2) and rule 115, the registrar is entitled to accept and act upon any other proof of satisfaction of a charge that he may regard as sufficient.

(5) An application to register a discharge in Form DS1 must be made in Form AP1 or DS2 and an application to register a release in Form DS3 must be made in Form AP1.

### Discharges and releases of registered charges in electronic form

**115.**—(1) During the currency of a notice given under Schedule 2 and subject to and in accordance with the limitations contained in such notice, notification of—

(a) the discharge of, or

(b) the release of part of a registered estate in a registered title from,  
a registered charge may be delivered to the registrar in electronic form.

(2) Notification of discharge or release of part given in accordance with paragraph (1) shall be regarded as having the same effect as a discharge in Form DS1, or a release of part in Form DS3, as appropriate, executed in accordance with rule 114 by or on behalf the person who has delivered it to the registrar.

### Transfer of a registered charge

**116.** A transfer of a registered charge must be in Form <sup>F12</sup>... TR4 or AS2, as appropriate.

#### Textual Amendments

**F12** Word in rule 116 omitted (10.11.2008) by virtue of [The Land Registration \(Amendment\) Rules 2008 \(S.I. 2008/1919\)](#), rule 2(1), [Sch. 1 para. 42](#) (with rule 5)

**[<sup>F13</sup>Information relating to deeds of postponement in respect of registered charges and noted charges**

**116A.** The registrar may, upon application, make an entry in an individual register referring to an agreement which it is claimed relates to priorities between a registered charge and a charge which is the subject of a notice in the same individual register.]

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**Textual Amendments**

**F13** Rule 116A inserted (10.11.2008) by [The Land Registration \(Amendment\) Rules 2008 \(S.I. 2008/1919\)](#), rule 2(1), [Sch. 1 para. 43](#) (with rule 5)

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 form CH1 words substituted by [S.I. 2022/730 Sch. 1 para. 5](#)